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March 23, 2023

PRIVILEGED ATTORNEY/CLIENT COMMUNICATION

Via email only: JamesN@bartlien.com

Board of Directors
Eucalyptus Grove Homeowners Association
c/o James T.V. Nguyen
Bartlein & Company, Inc.

RE: Eucalyptus Grove Homeowners Association
Responsibility for Patio Storage Doors and Water Pipes

Dear Members of the Board:

We are writing to provide Eucalyptus Grove Homeowners Association (“Association”) with our opinion on whether the Association or the Owners are responsible for maintaining, repairing and replacing the patio and balcony Storage Doors (“Storage Doors”) and Water Pipes from the meter to the individual Unit (“Water Pipes”) within the Development. It is our opinion that the Association is responsible for maintaining, repairing and replacing the Storage Doors and the Water Pipes. If the Owners were negligent and such negligence damaged the Storage Doors or the Water Pipes, the Association may be able to seek reimbursement of the Storage Door or Water Pipe repair costs.

As we understand the facts, private storage closets are located on the Unit balconies and patios within the Development and are used by Owners for laundry machines, water heaters, or to store personal belongings. In addition, the Units are individually metered for water, and the Association is unsure who is responsible for the pipes from the meter to the Unit.

ANALYSIS

The Association's Condominium Plans¹ ("Condo Plans") depict and describe the boundaries of the Units and the Common Area. Note 2 on Sheet 3 of the Condo Plans states that the "Common Area" is the land and real property within Lots 1 to 3 of Tract Map 13,421 in Santa Barbara County, except the Units. Note 2 states that each Unit is composed of one or more airspaces. Note 4 states that the boundaries of each airspace are the interior finished surface of the perimeter walls, windows, doors, floors, and ceilings. Note 5 states that exclusive-use easements over the Common Area exist for Unit Patios and Balconies, as shown and defined in the Condo Plans. The boundaries of the Patios and Balconies are the finished surfaces of the walls, floors, ceilings, windows, and doors of the adjacent building where those boundaries exist.

The Storage Doors are Common Area because they are located outside the boundaries of the Units and the Unit Patios and Balconies. In addition, Note 3 of Sheet 3 of the Condo Plans states that all pipes, wherever located, are Common Area except for the pipe outlets within the Units. So, the portion of the water pipes from the individual water meters to the Units is also Common Area.

1. Maintenance, Repair and Replacement Obligations

California Civil Code §4775 states, in relevant part:

(a)

(1) Except as provided in paragraph (3), unless otherwise provided in the declaration of a common interest development, the association is responsible for repairing, replacing, and maintaining the common area.

Civil Code §4775(a) defers to an association's declaration for maintenance, repair and replacement obligations, so we look to the CC&Rs to determine whether it contains any language regarding maintenance of Storage Doors and Water Pipes. Section 5.5.1 of the CC&Rs states, "the Board shall...maintain [and repair]...the Common Area." Since the CC&Rs, do not specify that the Association is also responsible for replacing the Common Area, we defer to Civil Code §4775(a)(1), which assigns overall Common Area maintenance, repair and replacement responsibilities to the Association. Thus, the Association is responsible for maintaining, repairing, and replacing all Common Area,

¹ There are three Condominium Plans, all recorded in Santa Barbara County: (1) Lot 1 recorded on August 1, 1985 as document number 136-99, (2) Lot 2 recorded on November 18, 1985 as document number 137-8, and (3) Lot 3 recorded on December 18, 1985 as document number 1985-068073.

including all Water Pipes located outside the Units and the Storage Doors within the Development.

2. Damage to Common Area

The CC&Rs, Article III, Section 3.19 states that each owner is liable for any damage to the Common Area....sustained by reasons of the negligence of that owner, members of his family, his contract purchasers, tenants, guests or invitees. If the Water Pipes or Storage Doors need to be repaired or replaced, the Association must perform such work, even if an Owner caused the damage. However, if specific facts show an Owner did something that caused the damage, the Association may be able to charge the Owner for the damage to the Common Area under Civil Code §5855. Before charging the Owner, the Association must provide that Owner with notice and an opportunity to appear at a hearing before the Board.

CONCLUSION

In conclusion, the Storage Doors and Water Pipes are located outside the Units and are Common Area. Under the Association's CC&Rs and Civil Code §4775, the Association must maintain, repair and replace the Storage Doors and Water Pipes.

Owners are liable to the Association for damage caused to the Common Area. While the Association must repair and replace the Storage Doors and Water Pipes, if the Association can show that an Owner's action or omission caused the damage, the Association may be able to seek reimbursement from the responsible Owner(s).

We trust this letter satisfactorily responds to your inquiries regarding this matter. If we can be of further assistance, please contact the undersigned.

Very truly yours,



Tonya L. Todd, Esq.
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Professional Law Corporation